

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
EDILANYI MABELL SURIEL MONTE DE OCA,

Plaintiff,

-v-

AGAPITO DELA CRUZ, et al.,

Defendants.

CIVIL ACTION NO.: 20 Civ. 8442 (VBS) (SLC)

ORDER

SARAH L. CAVE, United States Magistrate Judge.

On April 22, 2021, this matter was referred to me to conduct an inquest and to issue a report and recommendation concerning Plaintiff's damages. (ECF No. 62). On April 23, 2021, the Court directed Plaintiff to submit proposed findings of fact and conclusions of law concerning damages no later than May 25, 2021. (ECF No. 63). On May 21, 2021, at Plaintiff's request, the Court extended this deadline to June 25, 2021. (ECF No. 65). On June 18, 2021, again at Plaintiff's request, the Court extended this deadline to July 26, 2021. (ECF No. 68). To date, Plaintiff has neither filed her proposed findings of fact and conclusions of law concerning damages nor requested an extension of the now-lapsed deadline to do so.

The Court will afford Plaintiff one final opportunity to file the materials necessary for the Court to ascertain her damages. Accordingly, it is hereby **ORDERED** that:

1. Plaintiff shall submit proposed findings of fact and conclusions of law concerning damages no later than **July 30, 2021**. Plaintiff must support all factual assertions by affidavit and/or other evidentiary material. Plaintiff's requested attorneys' fees and costs must be recorded in the form below, adding fields as necessary, and supported by evidentiary material.

2. Defendants shall submit their response to Plaintiff's submissions, if any, no later than **August 13, 2021**. IF DEFENDANTS (1) FAIL TO RESPOND TO PLAINTIFF'S SUBMISSIONS, OR (2) FAIL TO CONTACT MY CHAMBERS BY AUGUST 13, 2021 AND REQUEST AN IN-COURT HEARING, I INTEND TO ISSUE A REPORT AND RECOMMENDATION CONCERNING DAMAGES BASED ON PLAINTIFF'S WRITTEN SUBMISSIONS ALONE WITHOUT AN IN-COURT HEARING. See Transatlantic Marine Claims Agency, Inc. v. Ace Shipping Corp., 109 F.3d 105, 111 (2d Cir. 1997) ("[I]t [is] not necessary for the District Court to hold a hearing, as long as it ensured that there was a basis for the damages specified in a default judgment." (quoting Fustok v. ContiCommodity Services Inc., 873 F.2d 38, 40 (2d Cir. 1989))).

Plaintiff is directed to serve this Order on Defendants and file proof of service by no later than **July 30, 2021**.

Plaintiff is warned that failure to comply to this Order may cause the Court to issue an order to show cause why this case should not be dismissed for failure to prosecute. Fed. R. Civ. P. 41(b).

Dated: New York, New York
July 27, 2021

SO ORDERED



SARAH L. CAVE
United States Magistrate Judge

<u>Requested Attorneys' Fees</u>			
Timekeeper	Requested Rate	Requested Hours	Requested Total
		TOTAL:	

<u>Requested Costs</u>		
Type of Expense	Evidence (with ECF cite)	Amount Requested
	TOTAL:	